

ASSEMBLY BILL

No. 14

Introduced by Assembly Member Lieber

August 24, 2006

An act to add Article 2 (commencing with Section 1171) to Chapter 4.5 of Title 7 of Part 2 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 14, as introduced, Lieber. Sentencing Commission.

Existing law prescribes various penalties for criminal offenses.

This bill would establish the California Sentencing Commission, with specified membership and terms, to devise sentencing guidelines. The bill would also create a Judicial Advisory Committee composed of judges, as specified, to assist the commission.

This bill would also require the commission to submit to the Legislature, on or before January 1, 2008, a report containing sentencing guidelines, as specified. The sentencing guidelines contained in the report would become effective on May 1, 2008, unless the Legislature provides otherwise.

This bill would also require the commission, beginning on January 1, 2010, to issue a subsequent report every 2 years to the Legislature containing revisions or modifications of the sentencing guidelines, if any. The revisions or modifications to the sentencing guidelines contained in these reports shall become effective on May 1 of the year the report is issued unless the Legislature provides otherwise.

This bill would also provide that it shall not affect sentences established by an initiative.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 2 (commencing with Section 1171) is added to Chapter 4.5 of Title 7 of Part 2 of the Penal Code, to read:

Article 2. California Sentencing Commission

1171. There is hereby established in state government the California Sentencing Commission. The commission shall consist of 16 members. The chairperson shall be the Chief Justice of the Supreme Court.

(a) The following four members are ex officio members:

(1) The Attorney General.

(2) The Director of the Department of Corrections and Rehabilitation.

(3) The Director of the Department of Finance.

(4) The State Public Defender.

(b) The Governor shall appoint five members as follows:

(1) One prosecuting attorney.

(2) One chief of police or sheriff.

(3) One public member who is not and has not ever been an attorney, judge, or law enforcement officer.

(4) One person who is serving as an adult parole or probation officer, or who has served in that capacity.

(5) One public member.

(c) The Speaker of the Assembly shall appoint three members as follows:

(1) One public member who is not and has not ever been an attorney, judge, or law enforcement officer.

(2) One prosecuting attorney.

(3) One public member who is currently active in criminology research or academia in California.

(d) The Senate Committee on Rules shall appoint three members as follows:

(1) One public member who is not and has not ever been an attorney, judge, or law enforcement officer.

(2) One public defender.

(3) One faculty member of a law school within this state.

(e) The Chief Justice of the Supreme Court shall serve as the permanent chairperson of the commission. All other members of the commission, except ex officio members, shall serve terms of four years and until their successors are appointed and confirmed. However, of the initial members, those designated in paragraphs (1) and (2) of subdivision (b), paragraph (1) of subdivision (c), and paragraph (1) of subdivision (d) shall be appointed for terms of four years; those designated in paragraphs (3) and (4) of subdivision (b), paragraph (2) of subdivision (c), and paragraph (2) of subdivision (d) shall be appointed for terms of three years; and those designated in paragraphs (4) and (5) of subdivision (b), paragraph (3) of subdivision (c), and paragraph (3) of subdivision (d) shall be appointed for terms of two years.

(f) The members of the commission shall be reimbursed for travel and other expenses actually and necessarily incurred by them in the performance of their duties under this article.

(g) There shall also be a Judicial Advisory Committee, composed of four superior court judges and two appellate court judges to be appointed by the Judicial Council. The advisory committee shall assist the commission in the ways that the commission determines.

SEC. 2. Section 1171.1 is added to the Penal Code, to read:

1171.1. The commission shall appoint an executive director and a chief of research both of whom shall be exempt from civil service classification. The commission shall employ a full-time staff, who shall be civil service employees. The staff shall be of sufficient size and with sufficient resources to accomplish the duties of the commission.

SEC. 3. Section 1171.2 is added to the Penal Code, to read:

1171.2. (a) The commission shall devise sentencing guidelines.

(b) The commission shall review the history of determinate and indeterminate sentencing in this state, including constitutional questions that have been considered by the courts, and shall consider the use of indeterminate sentencing and alternatives to prison for nonserious, nonviolent offenders.

(c) The commission shall use existing minimum terms as a guideline for setting new minimums.

1 (d) The commission shall devise a system of granting and
2 rescinding sentence credits based upon individual inmate
3 treatment plans.

4 (e) The commission shall regularly monitor and conduct
5 studies on the prison system's present and future capacity, and
6 make these reports available to the Legislature, the Governor,
7 and the public. The commission shall take prison system capacity
8 into account as one of the factors in devising its sentencing
9 guidelines, and shall accompany any reports or recommendations
10 to the Legislature on sentencing guidelines with figures on the
11 impact they will have on prison population and prison capacity.

12 (f) The commission shall analyze legislation that would
13 modify sentencing and provide data and recommendations to the
14 Legislature.

15 SEC. 4. Section 1171.3 is added to the Penal Code, to read:

16 1171.3. (a) By January 1, 2008, the commission shall submit
17 to the Legislature a report containing the sentencing guidelines
18 developed pursuant to subdivision (a) of Section 1171.2. In
19 preparing the report, the commission may hold hearings and shall
20 consider the comments of legislators and members of the public.

21 (b) Every two years beginning January 1, 2010, the
22 commission shall issue a report to the Legislature containing
23 revisions or modifications to the sentencing guidelines, if any. If
24 implementation would result in exceeding the capacity of the
25 correctional facilities, then the commission shall accompany its
26 reports with additional revisions and modifications that are
27 consistent with the capacity of the correctional facilities.

28 (c) The sentencing guidelines contained in the initial report
29 prepared pursuant to subdivision (a) shall become effective on
30 May 1, 2008, unless the Legislature provides otherwise. The
31 revisions or modifications to the sentencing guidelines contained
32 in subsequent reports prepared pursuant to subdivision (b) shall
33 become effective on May 1 of the year the report is issued unless
34 the Legislature provides otherwise.

35 SEC. 5. Section 1171.4 is added to the Penal Code, to read:

36 1171.4. The sentencing guidelines of the commission shall
37 not apply retrospectively.

38 SEC. 6. Section 1171.5 is added to the Penal Code, to read:

1 1171.5. Nothing in Sections 1171.3 and 1171.4 shall affect
2 sentences established by an initiative.

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